

1 S T A T E O F N E W Y O R K  
COURT OF CLAIMS

2 -----x

ANTHONY MILLER,

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Claimant,

4

-against-

CLAIM NO.:135854

5

THE STATE OF NEW YORK,

6

Respondent.

7

SEPARATE ACTION

8

9 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

10 -----x

ANTHONY MILLER,

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Plaintiff,

12

vs.

CIVIL ACTION NO. 22-CV-6069

13

THE CITY OF ROCHESTER, ET AL.,

14

Defendants.

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17 Deposition of Anthony Miller, held on

18 July 13, 2022, commencing at 9:12 a.m., at New York

19 State Office of the Attorney General, 144 Exchange

20 Boulevard, Suite 200, Rochester, New York 14614, before

21 Ashley N. Castrejon, Registered Professional Reporter,

22 and Notary Public in and for the State of New York.

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## A P P E A R A N C E S

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1 STIPULATIONS

2

3 IT IS HEREBY STIPULATED, by and between the  
4 attorneys for the respective parties hereto, that:

5 All rights provided by the CPLR, and Part 221  
6 of the Uniform Rules for the Conduct of Depositions,  
7 including the right to object to any question, except as  
8 to form, or to move to strike any testimony at this  
9 examination is reserved; and in addition, the failure to  
10 object to any question or to move to strike any  
11 testimony at this examination shall not be a bar or  
12 waiver to make such motion at, and is reserved to, the  
13 trial of this action.

14 This deposition may be sworn to by the witness  
15 being examined before a Notary Public other than the  
16 Notary Public before whom this examination was begun,  
17 but the failure to do so or to return the original of  
18 this deposition to counsel, shall not be deemed a waiver  
19 of the rights provided by Rule 3116 of the CPLR, and  
20 shall be controlled thereby.

21 The filing of the original of this deposition  
22 is waived, and that the witness shall read and sign the  
23 original deposition transcript within 60 days upon  
24 receipt.

25

1                   A N T H O N Y   M I L L E R, called as a  
2   witness and being duly sworn, testifies as follows:

3                   EXAMINATION BY MS. CHRISTIE:

4                   Q     Good morning. I see you're wearing a  
5   mask, feel free to keep it on. You may remove it as  
6   well; however, you feel most comfortable. My name is  
7   Tamara Christie. I briefly introduced myself to you  
8   earlier this morning. I am an Assistant AG in the  
9   Rochester Office of the Attorney General's Office.

10                  I'll be asking you several questions  
11   about your conviction that resulted from your 09/25/13  
12   arrest for robbery in the City of Rochester. If at any  
13   point you need to take a break, let me know. I would be  
14   happy to give you a break as long as there's no question  
15   pending at the time.

16                  A     Okay.

17                  Q     If at any point you don't understand a  
18   question that I ask you, please let me know. I would be  
19   happy to rephrase it. If you answer it, I will assume  
20   that you understood. Fair enough?

21                  A     Okay.

22                  Q     Did you review -- did you look at  
23   anything in preparation for your testimony today?

24                  A     No. I just talked to my attorney.

25                  Q     With the mask on, sir, just keep your

1 weight were at that time?

2 A 5'5. 155.

3 Q And did you have facial hair at that  
4 time?

5 A Yes.

6 Q Can you describe the facial hair that you  
7 had?

8 A A beard. A mustache.

9 Q And would the facial hair be described as  
10 a chinstrap beard or something else?

11 A A chinstrap beard.

12 Q Were you arrested at approximately  
13 eight o'clock on September 25, 2013?

14 A Yes.

15 Q Where were you living at that time?

16 A 607 Birr Street.

17 Q And what type of residence was that? A  
18 house? An apartment?

19 A A house.

20 Q Who else lived with you at that address?

21 A My parents and my siblings.

22 Q And can you tell me your parents' names  
23 and your siblings' names?

24 A Anthony Miller Sr. and Nicole Miller.  
25 Sibling is Ayla Miller, Aleah Miller and Jamaal Clark.

1 Q And they were all living with you at 607  
2 Birr on 9/25/2013?

3 A Yes.

4 Q Can you tell me as best you can what you  
5 did, generally, earlier in the day from the time that  
6 you got up until 8:00 p.m.?

7 A I started my day off. I put my little  
8 sister on the bus -- put her on bus. I had a job  
9 interview about an hour or so later. Walked to my job  
10 interview and that went good. I walked back home and my  
11 father was home at the time, and I talked to him for a  
12 little bit.

13 Then, I just chilled out for that day  
14 until my sister got off the bus. I got her off the bus,  
15 and then I was probably playing a game an hour or so  
16 later. That's when I got a phone call about an incident  
17 that took place.

18 Q Let me just back up a little bit and ask  
19 you a few follow-up questions. Your sister, how old was  
20 she?

21 A At the time, I believe, she was ten.

22 Q What is her name?

23 A Ayla.

24 Q So you put her on the bus in the morning?

25 A Yes.



1 Q And then you went for a job interview?

2 A Yes.

3 Q Where did you go?

4 A It was somewhere off St. Paul. It was  
5 a plastic molding place.

6 Q Okay. And you had the interview that  
7 day?

8 A Yes.

9 Q How did you get there?

10 A I walked.

11 Q And after the interview you walked home?

12 A Yes.

13 Q And then when you got home, who was with  
14 you when you got home?

15 A My father was home at the time.

16 Q Nobody else?

17 A No. Nobody else was home at the time.

18 Q And then you stayed at home until at  
19 least the time your sister got off the bus? Is that a  
20 yes?

21 A Yes.

22 Q So your sister got home off the bus. I  
23 take it you mean the school bus?

24 A The school bus, yes.

25 Q Approximately what time was that?

1                   A     It had to be around three or four  
2     o'clock.

3                   Q     At that point, you said you got a phone  
4     call?

5                   A     Yes. I was playing a game and got a  
6     phone call.

7                   Q     You were playing a video game?

8                   A     Yes.

9                   Q     From whom did you get a phone call?

10                  A     Armekco Austin. A friend of mine.

11                  Q     Could you spell that for me?

12                  A     A-R-M-E-K-C-O, Austin.

13                  Q     A-U-S-T-I-N?

14                  A     Yes.

15                  Q     And what did Mr. Austin tell you?

16                  A     He informed me that a mutual friend of  
17     ours was attacked and currently in the hospital.

18                  Q     And who was the friend that was attacked?

19                  A     Brooklyn Cromes.

20                  Q     What did you do after receiving that  
21     phone call?

22                  A     After receiving that phone call, I  
23     attempted to call a friend for a ride. I didn't have a  
24     vehicle at the time. I attempted Shequan Williams. He  
25     wasn't able to give me a ride. Then, I called another

1 on Genesee Street.

2 Q Thank you. What was the weather like  
3 that day?

4 A I believe it was in the 60s.

5 Q Let me be more specific. What was the  
6 weather like during the time you were walked from Birr  
7 Street to Bradburn?

8 A Sixties probably.

9 Q What were you wearing when you left Birr  
10 Street?

11 A A hoodie, sweat pants, and a pair of tan  
12 Timberlands.

13 Q What color was the hoodie if you  
14 remember?

15 A A red hoodie.

16 Q What color were the sweat pants?

17 A Blue with white pinstripes on the side.

18 Q And you said -- what was on your feet?

19 A Tan Timberlands. Tan boots.

20 Q Thank you. Was anyone else at Birr  
21 Street -- 607 Birr Street when you left on foot?

22 A My little sister was there. My brother  
23 was there and my mother was there.

24 Q And tell me which brother?

25 A Jamaal Clark.

1 Q Did you have a cell phone on you when you  
2 left 607 Birr?

3 A Yes.

4 Q What was the number for that cell phone?

5 A I can't recall the number offhand.

6 Q Did you have any other electronic  
7 devices, pages, or anything on you --

8 A Yes.

9 Q Let me just finish the question. Did you  
10 have any other electronic devices like MP3 players,  
11 pagers, or anything else when you left on foot from 607  
12 Birr?

13 A An MP3 player.

14 Q Did you pick up any other electronic  
15 devices, by any means, between 607 Birr and 22 Bradburn?

16 A No.

17 Q Did you make any stops along the way  
18 between 607 Birr and Bradburn?

19 A No.

20 Q Did you interact with anyone either in  
21 person or on the phone or anything between 607 Birr and  
22 Bradburn?

23 A No.

24 Q No texts?

25 A No.

1 Q No calls?

2 A No.

3 Q You didn't talk to anybody in person?

4 A No.

5 Q No emails?

6 A No.

7 Q When you got to Bradburn, where did you  
8 go?

9 A I immediately went across the street. I  
10 went to the Aaron Hinds's house.

11 Q And Aaron Hinds was at 22 Bradburn?

12 A No. He was at his home. I'm not sure of  
13 the address, but it was across the street.

14 Q But it is on Bradburn?

15 A Yes.

16 Q So when you got to the vicinity of the  
17 street of Bradburn, the first place you went was Aaron  
18 Hinds's house?

19 A Yes.

20 Q And you don't remember the address, but  
21 it was on Bradburn Street?

22 A Yes.

23 Q Approximately what time did you arrive at  
24 Mr. Hinds's house?

25 A I would say after seven.

1 cell phone records back in the time of the criminal  
2 trial and you said it was the wrong cell phone number?

3 A I didn't see him until after conviction.  
4 When I reviewed all of the stuff that he put in, it had  
5 the wrong date.

6 Q What do you mean it had the wrong date?

7 A He was requesting for a number that  
8 didn't exist at the time.

9 Q You don't remember what your cell phone  
10 number was?

11 A No.

12 Q At any point, did you try to get any GPS  
13 or cell phone record proof that could show your  
14 whereabouts on September 25, 2013?

15 A Yes. I was in contact with the company.  
16 As far as the cell phone, it had to be utilized with an  
17 App. I didn't have a regular carrier like Verizon or  
18 T-mobile. So in order to use the cell phone, I had to  
19 be under Wi-Fi connection. That was my biggest thing in  
20 this case.

21 In order for me to utilize the cell  
22 phone, I had to be on Wi-Fi. There's not Wi-Fi in these  
23 places that you are saying where I was at. I would  
24 think it would be as simple as they look at my cell  
25 phone and see that I'm making calls and texting. I have

1     been pleading this whole time. I wrote the company.  
2     They are not responding. They don't respond to me. I  
3     went down literally every channel to get cell phone  
4     records.

5                 Q     Let me just understand what you are  
6     saying. So first you're saying if the records showed  
7     that you were on Wi-Fi, then if there's no Wi-Fi at the  
8     location of the robbery, then you must have been on  
9     Wi-Fi at some other location?

10                A     Yes.

11                Q     But you were never able to get the  
12     records?

13                A     No. My attorney wasn't.

14                Q     Who did you reach out to to try and get  
15     the records?

16                A     The actual company Text Plus. They are  
17     located in California.

18                Q     T-E-X-T Plus?

19                A     Yes.

20                Q     Does that company still exist?

21                A     I believe it does.

22                Q     Was that the name of the app? Was it  
23     another app?

24                A     That was the name of the app.

25                Q     At that time, you were able to use a cell

1 phone, but only on Wi-Fi?

2 A Yes.

3 Q You didn't have a cellular plan?

4 A No.

5 Q Did you ever attempt -- you personally.

6 Did you personally ever attempt to obtain the cell phone  
7 records of Mr. Hinds's whereabouts?

8 A During the time of the case, he turned  
9 over his T-mobile phone records, but they were never  
10 forensically examined.

11 Q When you say Mr. Hinds turned over his  
12 T-mobile phone records, to whom did he give them, if you  
13 know?

14 A He gave them to me, and then I gave them  
15 to my attorney Mr. Stubbe.

16 Q All right. You mentioned when I asked if  
17 you had any other evidence to prove that you did not  
18 commit this crime, you mentioned the K9 Track. Tell me  
19 about that.

20 A The K9 Track went past the location where  
21 I needed to, you know, turn to be found where I was  
22 found out.

23 Q And anything else that you can think of  
24 that would help prove that you did commit this crime?

25 A Not specifically. I would just suggest



1 to look at the whole case. It needs to be looked at  
2 under neutral eyes. Everything needs to be looked at, I  
3 feel.

4 Q Understood. What about the GPS records  
5 for the MP3 player would something like that exist?

6 A No, I don't believe so.

7 Q Mr. Miller, when was the last time you  
8 had any mental health treatment approximately?

9 A Probably six or seven months ago.

10 Q Which provider was that?

11 A I believe Strong Health.

12 Q In the Bill of Particulars provided by  
13 Mr. Shields dated June 23, 2022, it states in paragraph  
14 2 that "Claimant states that he is constantly angry,  
15 anxious, and depressed which makes all of his  
16 relationships more difficult." Can you tell me about  
17 that?

18 A Just, you know, I find it difficult that,  
19 you know, sometimes to maintain relationships with  
20 people. I know it stems from what I went through.  
21 Certain thoughts and, you know, patterns and stuff. It  
22 was just anxiety and mistrust, I guess.

23 Q Okay. That Bill of Particulars also  
24 states in paragraph 22 "Claimant is always anxious in  
25 public places particularly where police officers are or

1 may be present." Can you tell me about that?

2 A No. Just fair police, I guess.

3 Q Do you have an understanding as to why  
4 Mr. Hinds did not testify at your criminal trial?

5 A At the last minute, from what I  
6 overheard, he was saying that we didn't need him  
7 anymore, and he was also saying that the judge was not  
8 going to allow him to testify for whatever reason. So  
9 he told us that literally at the last minute. He called  
10 him an hour before he arrived and I guess the plans  
11 changed.

12 Q Now, Mr. Miller, I have completed my  
13 questioning. Is there anything else you would like to  
14 tell me that maybe wasn't prompted by any of my  
15 questions?

16 A I don't know. I just hope that ten years  
17 or close to ten years after the fact that somebody  
18 actually take an honest look into the case. You know,  
19 the officers and everything that took place. I don't  
20 think it should be too much contested that the original  
21 investigation wasn't honest. It wasn't a neutral  
22 investigation. I was targeted, you know, because of my  
23 past -- crimes I committed in the past.

24 So if you want to call it human error,  
25 and he had tunnel vision on me because I committed a

1 similar crime when I was a youth. I think everything  
2 pays down on was the tunnel vision. It must be him. He  
3 committed similar crimes before, so I would hope you  
4 take that away and just look at the evidence in this  
5 case. That's all I hope and pray for.

6 MS. CHRISTIE: I thank you very much  
7 for your time, and I wish you the best.

8 EXAMINATION BY MR. BEATH:

9 Q My name is Patrick Beath, and I represent  
10 the City of Rochester. I previously took a statement  
11 from you at the DH examination if you recall that some  
12 time ago.

13 A Yes.

14 Q So I'm not going to walk through all the  
15 same things that you were just asked about. I do have a  
16 few questions around some of those topics.

17 A Okay.

18 Q And I have some other areas that I want  
19 to acquire into. If as we go through this, I ask you a  
20 question that has already been asked, I apologize. It  
21 is not intentional.

22 A Yes.

23 Q You are still under oath and you still  
24 have an obligation to answer my questions truthfully.  
25 Do you understand that?

1 A Yes.

2 Q If you need a break at any time, just say  
3 so, and we will take a break. Do you have any questions  
4 for me before I begin my questioning of you?

5 A No.

6 Q At the very beginning of your questioning  
7 today, you were asked what you did to prepare for your  
8 deposition and if you had seen any documents. You  
9 indicated you spoke with your attorney, did you speak  
10 with anyone else in preparation for today's deposition?

11 A No.

12 Q Did you speak with Aaron Hinds at all in  
13 preparation for this deposition?

14 A No.

15 Q Let's go to the date of the incident  
16 September 25, 2013. You indicated earlier that during  
17 that day before the interaction with police you had gone  
18 to a job interview; is that right?

19 A Yes.

20 Q Where was the job interview?

21 A It was off of St. Paul Street.

22 Q You told us what you were wearing at the  
23 time of your arrest, and we saw some photographs of what  
24 you were wearing.

25 A Yes.

1 Q Did you wear that same clothing to the  
2 job interview?

3 A No.

4 Q Can you tell us what you wore to the job  
5 interview?

6 A I believe some khakis, a dress shirt, and  
7 I believe some work boots. I had some work boots. I  
8 probably had the same boots on.

9 Q The same Timberland boots?

10 A Yes.

11 Q Okay. So the Timberland boots that are  
12 in the photo, would you have had the boots laced up when  
13 you went to the interview, or would they have been  
14 unlaced?

15 A Probably unlaced. Like I said, when we  
16 speak unlaced -- it is sad to say how the police put it.  
17 Like, my shoe strings were dragging on the floor.  
18 That's not how people wear their Timberlands. When we  
19 say unlaced, the shoe string is probably this much  
20 hanging out (indicating).

21 Q Okay. So --

22 MR. SHIELDS: For the record, he put  
23 up his fingers.

24 A Yeah. The shoe string is not dragging on  
25 the floor. Nothing like that.